

HUMAN SERVICES BOARD

INTRODUCTION

FINDINGS OF FACT

1. The petitioner lives with G.G. and their two minor children. The minor children are five years old and two years old. Both G.G. and the older child are disabled. As part of their income, the family receives \$1,350 per month in Supplemental Security Income (SSI) disability benefits. In addition, the petitioner receives Reach-Up Financial Assistance (RUFA). Petitioner's RUFA grant has been sanctioned due to non-cooperation with the work requirements; the amount of her RUFA benefits for May is \$455. Starting

May 2007, petitioner's food stamps were increased to \$251 per month.

2. On May 21, 2007, petitioner applied for temporary housing assistance to cover the costs for housing at a motel. Petitioner listed her income as \$1,800 plus food stamps. The monthly cost of the motel was listed as \$1,200.

3. The Department denied petitioner's application on May 21, 2007 based on petitioner's situation not being a catastrophic situation as defined by the regulations and due to lack of information. Petitioner requested an expedited fair hearing on May 21, 2007. The expedited fair hearing was held on May 23, 2007.

4. Petitioner and G.G. rented an apartment through the Section 8 program. The monthly rent was \$1,250 of which the petitioner paid \$590. An eviction action was started on or about September 20, 2006 for nonpayment of rent and having unauthorized persons living with them. Petitioner testified that they did not file any papers with the court to contest the eviction. As a result, the landlord obtained a default judgment. Petitioner and G.G. left the apartment in late

December 2006.¹ Petitioner testified that she used October's rent for a vehicle and did not pay any subsequent rent because they knew they were being evicted.

5. Petitioner and her family have been staying at different motels since mid December 2006.

6. On April 24, 2007, petitioner applied for temporary housing assistance. N.S., Benefits Program Specialist, testified that petitioner explained that she had an apartment as of June 1, 2007 but needed help paying rent for the remainder of April. Petitioner wanted help with rent until May 1, 2007 when their monthly benefits would arrive.² Petitioner had a letter dated April 24, 2007 from COTS (the local shelter) that the family was not suitable for the shelter due to the childrens' medical and behavioral problems. According to N.S., the Department granted an exception to their rules and paid for the petitioner's housing at the motel through May 1, 2007. The Department expected that petitioner would be able to pay May's rent to the motel from the family's monthly income.

¹ Petitioner did not seek legal representation until mid December 2006 when she contacted Vermont Legal Aid (VLA). VLA did not initiate any court proceedings on behalf of the petitioner.

² The apartment has since fallen through.

7. From May 1 to the date of the expedited hearing, the motel charged the petitioner \$960.81; petitioner actually paid \$872.77. The motel's charges varied each week. Using an average, the monthly charge would be \$1,315 for May. Petitioner's income was \$1,805 (SSI and RUFA) and \$251 in food stamps. Petitioner's income exceeded the monthly rent by \$490. Counting the food stamps, petitioner had the sum of \$741 available to her for necessities if the rent had been fully paid.

8. Petitioner testified that she did not have the funds to pay for the remainder of May's motel bill. At the close of the expedited hearing, petitioner was asked for a monthly breakdown of expenses and the motel receipts. The Department was asked for an accounting of petitioner's monthly income as there had been testimony of differing amounts of assistance.

9. Petitioner supplied the May motel receipt and a list of the rents at other motels showing their charges to be similar to her current motel. Petitioner listed expenses of \$75 for diapers³ and \$350 for food. Petitioner listed the

³Medicaid covers costs for diapers of petitioner's disabled child. Petitioner was referred to her health care provider for the documentation necessary to increase Medicaid coverage for diapers.

charge for a bus ride and for taxi service but did not list her actual transportation expenses.

10. The Department provided the following accounting:

	<u>Jan</u>	<u>Feb</u>	<u>Mar</u>	<u>Apr</u>	<u>May</u>
RUFA	337	262	530	455	455
SSI	1,350	1,350	1,350	1,350	1,350
FS	65	53	53	47	251
EA				500	
Total:	1,752	1,665	1,993	2,352	2,056

11. Petitioner was unable to account for her monthly income in excess of the motel rent and necessities.

ORDER

The Department's decision to deny temporary housing assistance is affirmed.

REASONS

Families with dependent children can apply to the Department for help meeting their needs when they have no other way to meet those needs. W.A.M. § 2800 *et seq.*⁴ In particular, families can apply for temporary housing assistance to ensure they will be housed while seeking

⁴ The General Assistance regulations setting out eligibility criteria for temporary housing assistance parallel the EA regulations. W.A.M. § 2600 *et seq.*

permanent housing. In doing so, families must meet the eligibility criteria set out at W.A.M. § 2802.

W.A.M. § 2802 states:

Applicants with an emergency need attributable to a catastrophic situation (2802.1) may qualify for EA to address that need, provided that they meet the eligibility criteria in 2802-2804. . .

To qualify for such assistance, applicants must meet all of the following eligibility criteria:

1. They must have an emergency need attributable to a catastrophic situation, as defined in 2802.1.
2. They must have exhausted all available income and resources.
3. They must explore and pursue or have explored and pursued all alternatives for addressing the need, such as family, credit or loans, private or community resources. . .

In addition, applicants for temporary housing need to show "they are involuntarily without housing through circumstances that they could not have reasonably avoided". W.A.M. § 2813.2.

Under the regulations, homelessness due to a court ordered eviction can be considered a catastrophic situation triggering the right to temporary housing assistance. The crux is whether the eviction was due to circumstances over which the applicant had control. Violations of rental agreements including nonpayment of rent where the applicant

had the financial ability to pay rent are not catastrophic situations.

At the time of the eviction action, petitioner had income of approximately \$1,800 per month. Petitioner's portion of the rent was \$590. There is no credible evidence that the petitioner did not have the ability to pay the rent and save her tenancy.

Subsequent to the eviction, petitioner and her family have lived in motels. Once again, their income has exceeded their housing expenses. The Department made an exception to pay the petitioner's rent for the remainder of April 2007 with the understanding that petitioner had the means to pay May's rent. At the beginning of May, petitioner's family received \$1,350 in SSI and the first portion of her RUFA grant. Sufficient funds were on hand to pay for May's housing.

Both the emergency assistance and general assistance programs are programs of last resort. Eligibility criteria are narrow; the expectation is that all available funds will be used for housing. Here, petitioner made periodic payments to the motel through May 20, 2007 totaling \$872.77. There was no credible evidence that petitioner did not have the

ability to pay May's housing expenses as well as her other necessities.

Accordingly, the Department's denial of temporary housing assistance is affirmed. 3 V.S.A. § 3091(d), Fair Hearing Rule No. 17.

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